

**THE STATE OF NEW HAMPSHIRE**  
**SUPREME COURT**

**In Case No. 2005-0083, State of New Hampshire v. Richard E. Hebbard, the court on January 26, 2006, issued the following order:**

Following a bench trial, the defendant, Richard Hebbard, was found guilty of disorderly conduct. See RSA 644:2, II (b) (1996). On appeal, he argues that the trial court: (1) misconstrued the statute; (2) erred in finding him guilty; and (3) erred in ruling that the words he used constituted “fighting words.” We reverse.

RSA 644:2, II (b) provides that a person “is guilty of disorderly conduct if . . . [h]e directs at another person in a public place obscene, derisive or offensive words which are likely to provoke a violent reaction on the part of an ordinary person . . . .” “By using the word ‘violent,’ the legislature intended to criminalize those words which are likely to provoke extreme force or abnormally sudden activity.” State v. Boulais, 150 N.H. 216, 218 (2003). Prosecution is authorized under this statute only if the offending remarks create a substantial and unjustifiable risk of violent reaction on the part of an ordinary person. Id. at 219-20.

In this case, the evidence included that the defendant was driving a tractor with five-foot high tires, the parties did not leave their respective vehicles after the offensive words were uttered, and when asked if she ever tried to get out of her car to assault him, the other driver responded, “If you look at me and you look at him, why would I, why would I do that?” The other driver also testified that when the defendant made his remarks, she asked him “what did you say?” and that she did not have a violent urge to do something violent to him.

Despite the offensive nature of the remarks, and viewing the evidence in the light most favorable to the State, we conclude that no rational trier of fact could find beyond a reasonable doubt that the defendant’s comments created a substantial and unjustifiable risk of a violent reaction on the part of an ordinary person. See id. at 220; Commonwealth v. Hock, 728 A.2d 943, 946 (Pa. 1999) (“The cardinal feature of the crime of disorderly conduct is public unruliness which can or does lead to tumult and disorder.” (quotation omitted)).

Reversed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,**  
**Clerk**